ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

OVERVIEW

EPA works to ensure that all Americans are protected from significant risks to human health and the environment, including climate change, and that overburdened and underserved communities and vulnerable individuals -- including low-income communities and communities of color, children, the elderly, tribes, and indigenous people -- are meaningfully engaged and benefit from focused efforts to protect their communities from pollution. EPA acts to ensure that all efforts to reduce environmental harms are based on the best available scientific information, that federal laws protecting human health and the environment are enforced equitably and effectively, and that the
United States plays a leadership role in working with other nations to protect the global environment. EPA is committed to environmental protection that builds and supports more diverse, equitable, sustainable, resilient, and productive communities and ecosystems.

By taking advantage of the latest science, the newest technologies and the most cost-effective and sustainable solutions, EPA and its federal, tribal, state, local, and community partners have made important progress in addressing pollution where people live, work, play, and learn. By cleaning up contaminated waste sites, reducing greenhouse gases, lowering emissions of mercury and other air pollutants, and investing in water and wastewater treatment, EPA's efforts have resulted in tangible benefits to the American public. Efforts to reduce air pollution alone have produced hundreds of billions of dollars in benefits in the United States, and tremendous progress has been made in cleaning up our nation's land and waterways. But much more needs to be done to implement the nation's environmental statutes and ensure that all individuals and

communities benefit from EPA's efforts to protect human health and the environment and to address the climate crisis.

EPA will use its regulatory authorities, along with grant- and incentive-based programs, technical and compliance assistance, and research and educational initiatives, to address the following priorities set forth in EPA's Strategic Plan:

- Tackle the Climate Crisis
- Take Decisive Action to Advance Environmental Justice and Civil Rights
- Enforce Environmental Laws and Ensure Compliance
- Ensure Clean and Healthy Air for All Communities
- Ensure Clean and Healthy Water for All Communities
- Safeguard and Revitalize Communities
- Ensure Safety of Chemicals for People and the Environment

All this work will be undertaken with a strong commitment to scientific integrity, the rule of law and transparency, the health of children and other vulnerable populations, and with special focus on supporting and achieving environmental justice at federal, tribal, state, and local levels.

HIGHLIGHTS OF EPA'S REGULATORY PLAN

This Regulatory Plan highlights our most important upcoming regulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Tackle the Climate Crisis

EPA must continue to take bold and decisive steps to respond to the severe and urgent threat of climate change, including taking appropriate regulatory action under existing statutory authorities to reduce emissions from our nation's largest sources of greenhouse gases (GHG). The impacts of climate change are affecting people in every region of the country, threatening lives and livelihoods and damaging infrastructure, ecosystems, and social systems. Overburdened and underserved communities and individuals are particularly vulnerable to these impacts, including low-income communities and communities of color, children, the elderly, tribes, and indigenous people.

Exercising its authority under the Clean Air Act (CAA), EPA will address major sources of GHGs that are driving these impacts by taking regulatory action to minimize emissions of methane from new and existing sources in the oil and natural gas sector; reduce GHGs from new and existing fossil fuel-fired power plants; limit GHGs from new light-duty vehicles and heavy-duty trucks; and set requirements for the use of renewable fuel. EPA will also carry out the mandates of the recently enacted American Innovation and Manufacturing (AIM) Act to implement, and where appropriate accelerate, a national phasedown in the production and consumption of hydrofluorocarbons (HFCs), which are highly potent GHGs. Further, these regulatory priorities complement the commitment to holistically and aggressively combat damaging climate pollution while supporting the creation of good jobs and lowering energy costs for families together with implementation of relevant climate provisions of the Inflation Reduction Act.

- **Standards of Performance for New, Reconstructed, and Modified Sources and Emission Guidelines for Oil and Natural Gas Sector Climate Review.** The oil and natural gas industry are the largest industrial source of U.S. emissions of methane, a GHG more than 25 times as potent as

carbon dioxide at trapping heat in the atmosphere. On November 15, 2021, EPA proposed new source performance standards and emission guidelines for new and existing crude oil and natural gas facilities. (86 FR 63110). This action responded to the January 20, 2021, Executive Order (EO) 13990 titled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," which directed EPA to consider certain actions to reduce methane and volatile organic compound (VOC) emissions in the oil and natural gas sector. As a next step in the rulemaking process, EPA intends to issue a supplemental proposed rule that strengthens, expands and revises the November 2021 proposed rule in response to information and feedback received during the public comment period. EPA expects to issue a final rule in Spring 2023.

- **Emission Guidelines for Greenhouse Gas Emissions from Fossil Fuel-Fired Existing**

Electric Generating Units. Fossil fuel-fired power plants are the nation's second largest source of GHG pollution. On June 30, 2022, the U.S. Supreme Court decision in *West Virginia v EPA* faulted the 2015 Clean Power Plan rule and remanded it back to the D.C. Circuit. EPA is considering the implications of this Supreme Court decision and is now undertaking a new rulemaking to establish emission guidelines under CAA section 111(d) to limit GHG emissions from existing fossil fuel-fired EGUs. EPA anticipates issuing a proposed rule for this action in Spring 2023, and promulgating a final rule by Summer 2024.

- **Amendments to the NSPS for GHG Emissions from New, Modified, & Reconstructed Stationary Sources: EGUs.** Under CAA section 111(b), EPA sets New Source Performance Standards (NSPS) for GHG emissions from new, modified, and reconstructed fossil fuel-fired power plants. In 2015, EPA finalized regulations to limit GHG emissions from new fossil-fuel fired utility boilers and from natural gas-fired stationary combustion turbines. In 2018, EPA proposed to revise the NSPS for coal fired EGUs. To date, that proposed action has not been finalized. The purpose of this action is to conduct a comprehensive review of the NSPS and, if appropriate, amend the emission standards for new fossil fuel fired EGUs. EPA anticipates issuing a proposed rule in Spring 2023, and promulgating a final rule by Summer 2024.

- **Greenhouse Gas Emissions Standards for Heavy-Duty Engines and Vehicles – Phase**

3. Transportation is the largest source of GHG emissions in the United States, making up 29 percent of all emissions. Within the transportation sector, heavy-duty vehicles are the second-largest contributor, at 23 percent. EPA previously took action to reduce GHG emissions from heavy-duty trucks with its Phase 1 and Phase 2 GHG standards (76 FR 57106, 81 FR 73478). Many of these zero-emission technologies are available today, and the number of products available, as well as production volumes, are expected to accelerate in the next few years. EPA will assess the impact that these zero-emission technologies will have on the overall effectiveness of the Phase 2 program and whether targeted adjustments to GHG standards in 2027 may be warranted. Beyond 2027, heavy-duty truck manufacturers are already signaling a large-scale migration from gasoline and diesel engines to zero-emission technologies in their products. With this action, EPA would revise GHG standards for all heavy-duty vehicles and engines to go beyond the existing standards and leverage zero-emission and other advanced technologies. These new GHG standards would apply to Model Years 2027 – 2030+.

- **Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles.** Per EPA's authority under the CAA section 202(a), EPA will propose a comprehensive set of emissions standards for GHGs and criteria pollutants for the light-duty vehicle sector as well as the medium-duty vehicle Class 2B and 3 sectors. The standards will begin with model year 2027, with stringency levels set at least through model year 2030. This action is also supported by EO 14037, titled “Strengthening American Leadership in Clean Cars and Trucks.” EPA will coordinate with the Department of Transportation in developing this proposal as appropriate.

- **Volume Requirements for 2023 and Beyond under the Renewable Fuel Standard**

Program. CAA section 211 requires EPA to set renewable fuel percentage standards every year. In this action EPA would propose the standards for 2023 - 2025 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel. This action would also address a judicial remand of the 2016 standard-

setting rulemaking, as well as propose several regulatory changes and additions to the RFS program, including regulations governing the generation of Renewable
Identification Numbers (RINs) representing renewable electricity (eRINs).

- **Restrictions on Certain Uses of Hydrofluorocarbons under Subsection (i) of the American Innovation and Manufacturing Act.** EPA is developing a proposed rule that will in part respond to eleven petitions for rulemaking granted in October 2021 under AIM Act subsection (i).

Specifically, EPA is considering a rule restricting, fully, partially, or on a graduated schedule, the use HFCs in sectors or subsectors including the refrigeration, air conditioning, aerosol, and foam sectors, and establishing recordkeeping and reporting requirements, and addressing other related elements of the AIM Act. This proposal will facilitate and accelerate the phasedown of HFC consumption and production required by the AIM Act by restricting the use of HFCs where costeffective substitutes are available.

- **Phasedown of Hydrofluorocarbons: Updates to the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act for 2024 and Later Years.**

This rule will continue to implement the HFC phasedown under the AIM Act. In September 2021, EPA finalized a rule that established a framework for the allowance allocation and trading program to phase down HFC production and consumption over time, specifically determining an approach to allocate annual allowances for 2022 and 2023. To continue phasing down the production and consumption of listed HFCs on the schedule listed in the AIM Act, this rulemaking will determine an approach to allocating annual allowances in 2024 and later years and make adjustments based on the lessons learned from implementation of the framework rule.

- **Management of Certain Hydrofluorocarbons and Substitutes under Subsection (h) of the American Innovation and Manufacturing Act of 2020.** EPA is considering a rulemaking to establish requirements for management of certain HFCs and their substitutes under AIM Act subsection (h). Specifically, EPA is considering a rulemaking to establish regulations to control, where appropriate, practices, processes, or activities regarding the servicing, repair, disposal, or installation of equipment, for the purpose of maximizing the reclamation and minimizing the release of certain HFCs from equipment and ensuring the safety of technicians and consumers. Among these practices, processes,

and activities, EPA is considering applying leak repair requirements to certain equipment using HFCs and their substitutes as refrigerants in this rulemaking. EPA also intends to consider options to increase opportunities for reclaiming regulated substances used as refrigerants and potential approaches to coordinate regulations carrying out AIM Act subsection (h) with similar EPA regulations, such as the refrigerant management program established under CAA

Title VI.

Ensure Clean and Healthy Air for All Communities

All people regardless of race, ethnicity, national origin, or income deserve to breathe clean air. EPA has the responsibility to protect the health of vulnerable and sensitive populations, such as children, the elderly, and persons overburdened by pollution or adversely affected by persistent poverty or inequality. Since enactment of the CAA, EPA has made significant progress in reducing harmful air pollution even as the U.S. population and economy have grown. Between 1970 and 2020, the combined emissions of six key pollutants dropped by 78%, while the U.S. economy remained strong growing 272% over that time period. As required by the CAA, EPA will continue to build on this progress and work to ensure clean air for all Americans, including those in underserved and overburdened communities. Among other things, EPA will take regulatory action to review and implement health-based air quality standards for criteria pollutants such as particulate matter (PM); limit emissions of harmful air pollution from both stationary and mobile sources; address sources of hazardous air pollution (HAP), such as ethylene oxide, that disproportionately affect communities with environmental justice concerns; and protect downwind communities from sources of air pollution that cross state lines. Along with the full set of CAA actions listed in the regulatory agenda, the following high priority actions will allow EPA to continue its progress in reducing harmful air pollution.

- **Ambient Air Quality Standards for Particulate Matter Reconsideration.** Under the CAA,

EPA is required to review and if appropriate revise the air quality criteria for the primary (healthbased) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. In December 2020, EPA published its final decision in the review of the PM NAAQS, retaining the existing standard established in 2013. On June 10, 2021, EPA notified the public that it will reconsider the 2020 decision to retain the PM NAAQS because the available scientific evidence and technical information indicate that the current standards may not be adequate to protect public health and welfare, as required by the CAA. As part of this reconsideration, in May 2022 EPA released a Supplement to the 2019 PM ISA and a Policy Assessment which consider the most upto-date science on the public health and welfare impacts of PM and were reviewed by the chartered Clean Air Scientific Advisory Committee (CASAC) and a newly constituted expert PM panel. EPA plans to issue a final decision on the reconsideration in Summer 2023.

- **NESHAP: Coal- and Oil-Fired Electric Utility Steam Generating Units-Revocation of the 2020 Reconsideration, and Affirmation of the Appropriate and Necessary Supplemental**

Finding. In 2012, EPA issued the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coal- and Oil-fired Electric Utility Generating Units (EGUs) rule (40 CFR part 63, subpart UUUUU), commonly referred to as the Mercury and Air Toxics Standards (MATS), which includes standards to control HAP emissions from new and existing coal- and oil-fired steam EGUs located at both major and area sources of HAP emissions. As part of the 2012 rule, and as required by CAA section 112(n), EPA found that it was appropriate and necessary to regulate coal- and oilfired steam EGUs under CAA section 112. In a May 22, 2020, action, EPA found that it is not appropriate and necessary to regulate coal- and oil-fired EGUs under CAA section 112. Consistent with Executive Order 13990, EPA is reviewing the May 22, 2020, finding. EPA issued a proposed revised reconsideration of the appropriate and necessary finding on February 9, 2022 (87 FR 7624).

- **NESHAP: Coal-and Oil-Fired Electric Utility Steam Generating Units-Review of the**

Residual Risk and Technology Review. On February 16, 2012, EPA promulgated the MATS rule. On May 22, 2020, in the Federal Register notice announcing the completion of a reconsideration of the appropriate and necessary finding for MATS, EPA also finalized the residual risk and technology review (RTR) conducted for the Coal- and Oil-Fired EGU source category regulated under MATS (85 FR 31286). Consistent with Executive Order 13990, EPA will review the RTR portion of the May 22, 2020, final action and, under this action, will take appropriate action resulting from that review.

- **Interstate Transport Rule for 2015 Ozone NAAQS.** This action would apply in certain states for which EPA has either disapproved a "good neighbor" state implementation plan (SIP) submission under CAA section 110(a)(2)(D)(i)(I) or has made a finding of failure to submit such a SIP submission for the 2015 ozone NAAQS. This action would determine whether and to what extent upwind sources of ozone-precursor emissions need to reduce these emissions to prevent interference with downwind states' maintenance or attainment of the 2015 8-hour ozone NAAQS. For upwind states that EPA determines to be linked to a downwind nonattainment or maintenance receptor, EPA would conduct further analysis to determine what (if any) additional emissions controls are required in such states and develop an enforceable program for implementation of such controls. On April 6, 2022, EPA issued a proposed "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard" (87 FR 20036). EPA expects to issue the final rule in March 2023.

- **Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards.** Heavy-duty engines have been subject to emission standards for criteria pollutants, including PM, hydrocarbon (HC), carbon monoxide (CO), and oxides of nitrogen (NOx), for nearly half a century. Current data suggest that existing standards should be revised to ensure full, in-use emission control. NOx emissions are major precursors of ozone and significant contributors to secondary PM2.5 formation. Reducing NOx emissions from on-highway, heavy-duty trucks and buses is an important component of improving air quality nationwide and reducing public health and welfare effects associated with these pollutants, especially for vulnerable populations and in highly impacted regions.

On March 28, 2022, EPA published a proposed rule that would set new, more stringent standards to reduce pollution from heavy-duty vehicles and engines starting in model year (MY) 2027 (87 FR 17414). This proposal is consistent with President Biden's Executive Order 14037, "Strengthening American Leadership in Clean Cars and Trucks" and would ensure the heavy-duty vehicles and engines that drive American commerce are as clean as possible while charting a path to advance zero-emission vehicles in the heavy-duty fleet.

- **National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Commercial Sterilization and Fumigation Operations.** In December 1994, pursuant to CAA section 112(d), EPA promulgated the NESHAP for Ethylene Oxide Commercial Sterilization and Fumigation Operations (59 FR 62585). The NESHAP established standards for both major and area sources. EPA completed a residual risk and technology review for the NESHAP in 2006 and, at that time, concluded that no revisions to the standards were necessary. In this action, EPA will conduct the second technology review for the NESHAP and assess potential updates to the rule. To aid in this effort, EPA issued an advance notice of proposed rulemaking (ANPRM) that solicited comment from stakeholders, undertook a Small Business Advocacy Review (SBAR) panel, which is needed when there is the potential for significant economic impacts to small businesses from any regulatory actions being considered and is conducting community outreach as part of the development of this action.

- **Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act.** This rulemaking will address the review of the final rule, "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act" (Major MACT to Area, or MM2A final rule). (85 FR 73854, November 19, 2020) Consistent with Executive Order 13990, EPA has decided to review the MM2A final rule as appropriate and consistent with the CAA section 112.

- **Revisions to the Air Emission Reporting Requirements (AERR).** This action proposes revisions to the existing AERR rule last revised on February 19, 2015 (80 FR 8787), and may include major revisions. EPA is considering how to improve the quality and completeness of HAP emissions data from stationary sources and all pollutant emissions from prescribed fires. Further, EPA is considering how best to quantify emissions from intermittent sources such as backup generators; how to obtain data from permitted facilities in Indian Country when a Tribe is not required to report emissions data; and how to address known data gaps, streamline processes, and improve data quality, documentation, and transparency for nonpoint and mobile sources.

Ensure Clean and Healthy Water for All Communities

The Nation's water resources are the lifeblood of our communities, supporting our health, economy, and way of life. Clean and safe water is a vital resource that is essential to the protection of human health. EPA is committed to ensuring clean and safe water for all, including low-income communities and communities of color, children, the elderly, tribes, and indigenous people. Since the enactment of the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA), EPA and its state and tribal partners have made significant progress toward improving the quality of our waters and ensuring a safe drinking water supply. Along with the full set of water actions listed in the regulatory agenda, the regulatory initiatives listed below will help ensure that this important progress continues.

- **Revised Definition of "Waters of the United States" – Rule 1:** In April 2020, EPA and the Department of the Army ("the agencies") published the Navigable Waters Protection Rule (NWPR) that revised the previously-codified definition of "waters of the United States" (85 FR 22250, April 21, 2020) Consistent with the directives of Executive Order 13990, the agencies reviewed the NWPR, and, as a result, the agencies initiated the development of regulations that are founded on the familiar

framework of the pre-2015 regulations, are consistent with the statute and informed by relevant Supreme Court decisions, and that reflect a reasonable interpretation based on the record before the agencies, including the best available science. The proposal was open for public comment between December 2021 and February 2022. It is planned that this rule will be finalized by the end of 2022.

- **Revised Definition of "Waters of the United States" - Rule 2:** The agencies intend to pursue a second rule defining ”Waters of the United States” to consider further revisions to the agencies' first rule. This second rule proposes to include revisions reflecting on additional stakeholder engagement and implementation considerations, scientific developments, litigation, and environmental justice values. This effort will also be informed by the experience of implementing the pre-2015 rule, the 2015 Clean Water Rule, and the 2020 Navigable Waters Protection Rule.

- **Clean Water Act Section 401: Water Quality Certification.** In accordance with Executive Order 13990, EPA has completed its review of the 2020 Clean Water Act section 401 Certification Rule (85 FR 42210, July 13, 2020) and has determined that it erodes state and tribal authority as it relates to protecting water quality. Through the new rulemaking, EPA intends to restore the balance of state, tribal, and federal authorities while retaining elements that support efficient and effective implementation of CWA section 401. Congress provided authority to states and tribes under section 401 to protect the quality of their waters from adverse impacts resulting from federally licensed or permitted projects. Under section 401, a federal agency may not issue a license or permit to conduct any activity that may result in any discharge into navigable waters unless the affected state or tribe certifies that the discharge is in compliance with the CWA and state law or waives certification. EPA intends to strengthen the authority of states and tribes to protect their vital water resources. A proposed rule was released for public comment in June 2022. It is planned that this rule will be finalized in the spring of 2023.

- **Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category.** On July 26, 2021, EPA announced its decision to conduct a rulemaking to potentially strengthen the Steam Electric Effluent Limitations Guidelines (ELGs) (40 CFR 423). This rulemaking process could result in more stringent ELGs for waste streams addressed in the 2020 final rule, as well as waste streams not covered in the 2020 rule. The former could address petitioners' claims in current litigation pending in the Fourth Circuit Court of Appeals. *Appalachian Voices v. EPA*, No. 20-2187 (4th Cir.). EPA revised the Steam Electric ELGs in 2015 and 2020.

- **Per- and polyfluoroalkyl substances (PFAS): Perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) National Primary Drinking Water Regulation Rulemaking.** On March 3, 2021, EPA published the Fourth Regulatory Determinations (86 FR 12272), including a determination to regulate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) in drinking water. EPA intends to develop a proposed national primary drinking water regulation (NPDWR) for PFOA and PFOS, and, as appropriate, take final action. Additionally, EPA will continue to consider other PFAS as part of this action. EPA expects to issue the proposed PFAS NPDWR in Fall 2022. The Agency anticipates issuing a final regulation in Fall 2023 after considering public comments on the proposal.

- **National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.** EPA promulgated the final Lead and Copper Rule Revision (LCRR) on January 15, 2021, (86 FR 4198) and subsequently reviewed those revisions to further evaluate if the LCRR protected families and communities (86 FR 71574; December 17, 2021) particularly those that have been disproportionately impacted by lead in drinking water. Through this review, the Agency concluded that there are significant opportunities to improve the LCRR. EPA is developing a new proposed NPDWR, the Lead and Copper Rule Improvements (LCRI), to strengthen the regulatory framework and address lead in drinking water.

- **Federal Baseline Water Quality Standards for Indian Reservations.** EPA is developing a proposed rule to establish tribal baseline water quality standards (WQS) for waters on Indian reservations that do not have WQS under the CWA. The development of this rule will help advance President Biden's commitment to strengthening the nation-to-nation relationships with Indian Country. Fifty years after enactment of the CWA, over 80% of Indian reservations do not have this foundational protection expected by Congress as laid out in the CWA for their waters. Addressing this lack of CWA-effective WQS for the waters of more than 250 Indian reservations is a priority for EPA, given that WQS are central to implementing the water quality framework of the CWA.

Promulgating baseline WQS would provide more scientific rigor and regulatory certainty to National Pollutant Discharge Elimination System (NPDES) permits for discharges to these waters. Consistent with EPA's regulations, the baseline WQS would include designated uses, water quality criteria to protect those uses, and antidegradation policies to protect high quality waters. EPA has consulted with tribes and will continue to do so.

Water Quality Standards Regulatory Revisions to Protect Tribal Reserved Rights: Many tribes hold reserved rights to resources on lands and waters where states establish WQS, through treaties, statutes, or other sources of federal law. The U.S. Constitution defines treaties as the supreme law of the land. EPA is pursuing a change to its WQS regulations to ensure that WQS do not impair tribal reserved rights by giving clear direction on how to develop WQS where tribes hold reserved rights. This will help EPA ensure protection of resources reserved to tribes in treaties, statutes, or other sources of federal law when establishing, revising, and reviewing WQS. The development of this rule will help advance President Biden's commitment to strengthening the nation-to-nation relationships with tribes. EPA has and will continue to consult with tribes.

Safeguard and Revitalize Communities

EPA works to improve the health and livelihood of all Americans by cleaning up and returning land to productive use, preventing contamination, and responding to emergencies. EPA collaborates with other federal agencies, industry, states, tribes, and local communities to enhance the livability and economic vitality

of neighborhoods. Challenging and complex environmental problems persist at many contaminated properties, including contaminated soil, sediment, surface water, and groundwater that can cause human health concerns. EPA acts under several different statutory authorities, including the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA's regulatory program works to incorporate new technologies and approaches to cleaning up land to provide for an environmentally sustainable future more efficiently and effectively, as well as to strengthen climate resilience and to integrate environmental justice and equitable development when returning sites to productive use. Along with the other land and emergency management actions in the regulatory agenda, EPA will take the following priority actions to address the contamination of soil, sediment, surface water, and groundwater.

- **PFAS: RCRA Listing and CERCLA Designation.** Based on public health and environmental protection concerns and in response to petitions from the Governor of New Mexico, Public Employees for Environmental Responsibility, and Berkeley School of Law on behalf of five other organizations, which request EPA to take regulatory action on PFAS under RCRA, EPA is evaluating the existing toxicity and health effects data on four PFAS constituents to determine if they should be listed as RCRA Hazardous Constituents. If the existing data for the four PFAS constituents support listing any or all of these constituents as RCRA hazardous constituents, EPA will propose to list the constituents in a Federal Register notice for public comment. The four PFAS chemicals EPA will evaluate are: PFOA, PFOS, perfluorobutane sulfonic acid (PFBS), and hexafluoropropylene oxide dimer acid (HFPO-DA, or and GenX).

On October 18, 2021, EPA released its PFAS Strategic Roadmap which builds on and accelerates implementation of existing plans to address PFAS and commits to bolder new policies to address PFAS in the environment. EPA is developing an Advance Notice of Proposed Rulemaking in which the Agency will seek public input on further PFAS-related designations under CERCLA. As examples, the Agency may request input regarding the potential hazardous substance designation of additional PFAS; and designation, or designations of classes or sub-classes of PFAS as hazardous substances.

- **Hazardous and Solid Waste Management System: Addressing Coal Combustion**

Residues from Electric Utilities. On April 17, 2015, EPA promulgated national minimum criteria for existing and new coal combustion residuals (CCR) landfills and existing and new CCR surface impoundments. On August 21, 2018, the D.C. Circuit Court of Appeals issued its opinion in the case of *Utility Solid Waste Activities Group, et al v. EPA*, which vacated and remanded certain provisions of the 2015 rule.

The D.C. Circuit vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the CCR rule. EPA is developing regulations to implement this part of the court decision for inactive CCR surface impoundments at inactive utilities, or "legacy units". This proposal may include adding a new definition for legacy CCR surface impoundments. EPA may also propose to require such legacy CCR surface impoundments to follow existing regulatory requirements for fugitive dust, groundwater monitoring, and closure, or other technical requirements.
Finally, EPA is considering proposing corrective action requirements for all CCR contamination (regardless of how or when that CCR was placed) on site of a regulated facility.

The D.C. Circuit also vacated and remanded provisions related to the closure of unlined impoundments and classifying "clay-lined" impoundments as lined. On March 3, 2020, EPA proposed a number of revisions and flexibilities to the CCR regulations. In particular, EPA proposed the following revisions: (1) Procedures to allow facilities to request approval to use an alternate liner for CCR surface impoundments; (2) Two co-proposed options to allow the use of CCR during unit closure; (3) An additional closure option for CCR units being closed by removal of CCR; and (4) Requirements for annual closure progress reports. EPA has since taken final action on one of the four proposed issues. Specifically, on November 12, 2020, EPA issued a final rule that would allow a limited number of facilities to demonstrate to EPA that based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to have no probability of adverse effects on human health and the environment (85 FR 72506). EPA is developing a rulemaking that would consider taking final action on the remaining proposed issues.

The Water Infrastructure Improvements for the Nation (WIIN) Act established a new CCR regulatory structure under which states may seek approval from EPA to operate a permitting program that would regulate CCR facilities within their state; if approved, the state program would operate in lieu of the federal requirements. The WIIN Act requires that such state programs must ensure that facilities comply with either the federal regulations or with state requirements that EPA has determined are "at least as protective as" the federal regulations. Furthermore, the WIIN Act established a requirement for EPA to establish a federal permit program for the disposal of CCR in

Indian Country and in "nonparticipating" states, contingent upon Congressional appropriations. In March 2018 (Pub. L. 115-141) and March 2019 (Pub. L. 116-6), Congress appropriated funding for federal CCR permitting. The final rule would establish a new federal permitting program for disposal of CCR. The potentially regulated universe is limited to facilities with CCR disposal units subject to regulation under 40 CFR part 257 subpart D, which are located in Indian Country and in nonparticipating states. Remaining CCR facilities would be regulated by an approved state program and would not be subject to federal permitting requirements.

Accidental Release Prevention Requirements: Risk Management Program (RMP) under the Clean Air Act; Retrospection. In accordance with Executive Order 13990, EPA is revising the RMP regulations, which implement the requirements of CAA section 112(r)(7). RMP requires facilities that use extremely hazardous substances to develop a Risk Management Plan. In 2019, EPA finalized a reconsideration of the RMP regulations that eliminated many of the major incident prevention initiatives that had been established in 2017 amendments to the rule. EPA is developing a regulatory action to revise the current RMP regulations. EPA will consider the administration's priorities and focus on regulatory revisions completed since 2017. EPA will also consider stakeholder feedback received from RMP public listening sessions held on June 16 and July 8, 2021.

- **Reporting Requirements for Emissions from Animal Waste under the Emergency**

Planning and Community Right-to-Know Act. EPA is considering rescinding the June 13, 2019, final rule, which exempted reporting of air emissions from animal waste under the Emergency Planning and Community

Right-to-Know Act (EPCRA). On March 23, 2018, the President signed into law the "Fair Agricultural Reporting Method Act" or the "FARM Act." The FARM Act expressly exempts reporting of air emissions from animal waste (including decomposing animal waste) at a farm from CERCLA section 103. In the June 13, 2019, final rule, the Agency applied the CERCLA exemption to reporting under EPCRA. The Agency is now reconsidering that action.

- **Revisions to Standards for the Open Burning/Open Detonation of Waste Explosives.**

This rulemaking will consider revisions to the regulations that allow for the open burning and detonation (OB/OD) of waste explosives. The allowance or "variance" to the prohibition on the open burning of hazardous waste was established at a time when there were no alternatives to the safe disposal of waste explosives. However, recent findings from the National Academies of Sciences, Engineering, and Medicine and EPA have determined that safe alternatives are now available for many energetic/explosive waste streams. Because there are safe alternatives in use today that capture and treat emissions prior to release, EPA is considering revising regulations to promote the broader use of these alternatives, where applicable.

- **Definition of Hazardous Waste Applicable to Corrective Action for Solid Waste**

Management Units. EPA is considering a proposed rule that would modify the regulations at 40 CFR part 264 to clarify that the definition of hazardous waste found in RCRA section 1004(5) is applicable to corrective action for releases from solid waste management units. The proposed rule would more clearly implement EPA's longstanding interpretation of its authority under RCRA section 3004(u) and (v).

Ensure Safety of Chemicals for People and the Environment

EPA is responsible for ensuring the safety of chemicals and pesticides for all people at all life stages. Chemicals and pesticides released into the environment as a result their manufacture, processing, distribution, use, or disposal can threaten human health and the environment. EPA gathers and assesses information about the risks associated with chemicals and pesticides and acts to minimize risks and prevent unreasonable risks to individuals, families, and the environment. EPA acts under several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA), the Emergency Planning and Community Right-to-Know-Act (EPCRA), and the Pollution Prevention Act (PPA). Using best available science, the Agency will continue to satisfy its overall directives under these authorities and highlights the following rulemakings intended for release in FY2023:

- **Collecting Data to Better Understand the Environmental and Human Health Impacts of Perfluorooctanoic and Perfluorooctanesulfonic Acids.** As part of the actions identified in the PFAS Strategic Roadmap that the EPA Administrator announced on October 18, 2021, the Agency is considering whether to add certain PFAS chemicals to the list of chemicals required to report to the Toxics Release Inventory (TRI) Program under EPCRA section 313, and whether to remove TRI reporting exemptions and exclusions for PFAS. TRI information may be helpful to inform decisionmaking by communities, government agencies, companies and others.

Also identified in the 2021 PFAS Strategic Roadmap, the Agency is developing a proposal for a significant new use rule (SNUR) under TSCA section 5(a) for PFAS that are designated as “Inactive” on the TSCA Inventory. Such a rule would ensure that EPA is notified at least 90 days before the manufacture or processing of legacy PFAS designated as “inactive” on the TSCA Inventory for any use that EPA might determine in the rulemaking is a significant new use. The required notification initiates EPA’s evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use would be unable to commence until EPA has conducted a review of the submitted notice, made an appropriate determination on

the notice, and taken such actions as are required in association with that determination. EPA intends to issue the proposal in the first quarter of FY 2023.

Finally, the Agency is developing a final rule to establish reporting and recordkeeping requirements for persons that manufacture (including import) or have manufactured these chemical substances in any year since January 1, 2011, in accordance with TSCA section 8(a)(7) and the 2021 PFAS Roadmap. The information received by EPA in response to the final rule is expected to support the

Agency's efforts to better characterize the sources and quantities of manufactured PFAS in the United States. EPA expects to promulgate the final rule in early 2023.

- **Addressing the Unreasonable Risk of Existing Chemical Substances under TSCA.**

Upon determining that an existing chemical presents an unreasonable risk of injury to health or the environment, the Agency must immediately initiate an action to apply, by rule, requirements under TSCA to eliminate the unreasonable risk. EPA may consider a range of risk management options under TSCA in such a rule, including labeling, recordkeeping or notice requirements, actions to reduce human exposure or environmental release, or a ban of the chemical or of certain uses. After determining that the chemical substances present unreasonable risk under their conditions of use, the Agency intends to promulgate a final rule addressing the unreasonable risks of chrysotile asbestos (RIN 2070-AK86) in the coming year and also expects to propose risk management regulations for Methylene Chloride (RIN 2070-AK70), 1-Bromopropane (RIN 2070-AK73), Carbon Tetrachloride (RIN 2070-AK82), Trichloroethylene (RIN 2070-AK83), Perchloroethylene (RIN 2070AK84), and N-Methylpyrrolidone (RIN 2070-AK85) throughout 2023.

- **Improving Procedures for Assessing the Risks of New and Existing Chemical Substances and Mixtures under TSCA.** As amended in 2016, TSCA requires EPA to assess the risks of each new chemical substance for which a notice was received under TSCA section 5(a)(1) of the law make an affirmative determination on whether such a new chemical substance presents an unreasonable risk

to human health or the environment under known, intended or reasonably foreseen conditions of use before the submitter may commence manufacturing or processing of the chemical substance that is the subject of the submitted notice, and to take action as required in association with the determination. EPA is developing a proposed rule to amend the new chemicals procedural regulations in 40 CFR Parts 720, 723, and 725 for the purpose of aligning EPA's processes and procedures with the 2016 TSCA amendments and to clarify and improve the efficiency of the Agency's review process. The major objectives of the proposed rule are to increase the quality of information initially submitted in new chemicals notices, ensure that the Agency's processes result in the timely, effective completion of new chemical risk assessments, and improve

EPA's existing practices related to the review of certain groups of chemical substances under PreManufacture Notification (PMN) exemptions.

The 2016 TSCA amendments require EPA to evaluate the safety of existing chemicals via a threestage process: prioritization, risk evaluation, and risk management. EPA first prioritizes chemicals as either high- or low-priority for risk evaluation. EPA evaluates high-priority chemicals for unreasonable risk. Consistent with the directives of Executive Order 13990, EPA reviewed the TSCA risk evaluations issued for the first 10 chemicals and, as a result, intends to implement policy changes to ensure the Agency is protecting human health and the environment under the requirements of TSCA. EPA is in the process of reissuing unreasonable risk determinations for several of the first 10 chemicals that reflect, as appropriate, a determination that a whole chemical substance presents an unreasonable risk of injury to health when evaluated under its conditions of use rather than making a risk determination for each of the specific conditions of use of a chemical substance. In addition, the Agency's approach to the risk determination will no longer involve an assumption that all workers always appropriately wear personal protective equipment.

As EPA continues to implement the 2016 TSCA amendments and in consideration of Executive Order 13990, the Agency also intends to propose to amend a 2017 final rule that established a process for conducting existing chemical risk evaluations under TSCA. The proposed rule is expected to address requirements for manufacturer-requested risk evaluations and related information-gathering provisions, provisions addressing

violations and penalties, and other rule changes based on lessons learned in the process carrying out the first 10 TSCA risk evaluations.

- **Updating Certain Pesticide Exemptions to Reflect Newer Technologies.** To fulfill the requirement in section 4(b) of Executive Order 13874, entitled "Modernizing the Regulatory Framework for Agricultural Biotechnology Products" (84 FR 27899, June 14, 2019), EPA intends to finalize updates to the existing exemptions from regulation under FIFRA and FFDCA for certain plant incorporated protectant (PIP) products to reflect newer technologies, i.e., the exemptions are from the requirements to obtain a pesticide registration under FIFRA and establish a tolerance or tolerance exemption for residues in or on food commodities under FFDCA. EPA regulations define a PIP as a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant or produce thereof. EPA currently regulates all PIPs except those exempted by regulation. In October 2020, EPA proposed to allow certain PIPs created through biotechnology to also be exempt under existing regulations, in cases where those PIPs (1) pose no greater risk than PIPs that meet EPA safety requirements, and (2) could have otherwise been created through conventional breeding. EPA also proposed a process through which developers of PIPs based on sexually compatible plants created through biotechnology submit either a self-determination letter or request for EPA confirmation that their PIP meets the criteria for exemption. EPA intends to promulgate a final rule in 2023.

Reevaluating Changes to the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels under TSCA. The Agency's dust-lead hazard standards (DLHS) provide the basis for risk assessors to determine whether dust-lead hazards are present, and apply to target housing (i.e., most pre-1978 housing) and child-occupied facilities (pre-1978 non-residential properties where children 6 years of age or under spend a significant amount of time such as daycare centers and kindergartens). EPA's dust-lead clearance levels (DLCL) indicate the amount of lead in dust on a surface following the completion of an abatement activity. On July 9, 2019, EPA promulgated a final rule to lower the DLHS, and on January 6, 2021, EPA promulgated a final rule to lower the DLCL. The Agency is now considering further revisions of the DLHS and DLCL to bolster

the protection of children's health and to further reduce lead exposures in overburdened communities in consideration of the directives of Executive Order 13990. In addition, on May 14, 2021, the United States Court of Appeals for the Ninth Circuit issued an opinion to remand without vacatur the 2019 DLHS final rule and directed EPA to reconsider the 2019 DLHS rule in conjunction with a reconsideration of the DLCL. EPA expects to propose additional revisions to the DLHS and DLCL in early 2023.

Rules Expected to Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Flexibility Web site (https://www.epa.gov/reg-flex) at any time.